

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

T.W.D. - Review Petition filed by Smt. Gadi Nagamani W/o K.V.V.A.Seshagiri Rao, Yeleswaram, East Godavari District as per APAT directions in O.A. No. 3156/ 2009, dated 20.2.2009 against the orders issued in G.O.Ms.No.201, SW (CV.2) Department, dated 15.11.2008 - Rejected - Orders - Issued.

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No. 33

Dated:26-4-2010
Read the following:-

- 1.Proceedings of the Collector, East Godavari, No.Dis.C5(M) 1901/98 dated 20.3.2008.
- 2.Appeal Petition from Gadi Nagamani W/o K.V.V.A.Seshagiri Rao, Occ:Supervisor Grade-II, ICDS, Peddapuram, East Godavari Dist, filed before M(TW & RIAD) dated 23.5.2008.
- 3.G.O.Ms.No. 201, SW (CV.2) Department, dated 15.11.2008.
- 4.From the Orders of APAT., Hyderabad in O.A.No. 3156 of 2009, dated 20.2.2009.
5. Review Petition from Smt.Gadi Nagamani W/o K.V.V.A.Seshagiri Rao, Yeleswaram, East Godavari District, dated 27.2.2009.
- 6.From the Collector, E.G. Ref.C5/(M) 485/2008, dated 28.05.2009.
- 7.Govt. letter No.2363/CV.2/2009-3, SW Department, dated 9.6.2009

ORDER:

Smt.Gadi Nagamani, has already filed appeal petition before Govt. on 23.5.2008 against the Proceedings of the District Collector, East Godavari, issued in C5(M) 1901/98 dated 20.3.2008 for cancellation of her ST Konda Reddy caste certificate. Govt. have examined the appeal petition and given opportunity to the individual. Finally orders were issued in G.O.Ms.No.201, SW (CV.2) Department, dated 15.11.2008 rejecting the appeal petition of Smt.Gadi Nagamani and confirming the Proceedings of District Collector, East Godavari, issued in C5/(M) 1901/98, dated 20.3.2008.

2). Based on the orders, issued in G.O.Ms.No.201, SW (CV.2) Dept., dated 15.11.2008, the employer i.e., Regional Dy.Director, Women Development & Child Welfare Department, Eluru, has terminated Smt.Gadi Nagamani from the service, in his proceedings Rc.No.3521/A/2004, dated 10.2.2009. Aggrieved by the above said termination orders, Smt.G.Nagamani, has filed O.A. No. 3156 of 2009 before APAT., Hyderabad. The APAT., Hyderabad, has passed orders dated 20.2.2009 in O.A. No.3156 of 2009 directing the applicant to file an appeal before the concerned authorities within a period of two weeks from the date of receipt of Tribunal order and if at all any such appeal is filed, the 1st respondent (Govt.) is directed to consider the same and pass appropriate orders within a period of six weeks from the date of filing of the appeal.

3). Based on the above directions, Smt.G.Nagamani, has filed Review petition before the Govt. on 28.2.2009. This Revision Petition has been admitted.

::2::

4). Accordingly, the case has been posted for personal hearing on 23-06-2009. The appellant Gadi Nagamani and her husband Kothavalasa Seshigiri Rao Patnaik along with their counsel attended and submitted their arguments.

5) The following are the cardinal grounds of the appellant:

- i) The termination order passed by Regional Deputy Director of Women's Development & Child Welfare Dept., Eluru, W.G.Dist. against the appellant under R.C.No.3521/A/2004, dated 10.2.2009 is against to the principles of natural justice and ultra virus and the same is not maintainable.
- ii) The Govt. erred in relaying upon the impugned order passed by Collector, E.G. under Dis C-5(M) 1901/98, dated 20.3.2008. The Collector herein did not observe the principle of audi altrem partem and passed an erroneous order against the appellant herein and cancelled the community certificate which was issued by the Tahsildar, Y.Ramavaram Mandal.
- iii) The Collector and the Tahsildar herein without conducting proper enquiry in the Y.Ramavaram Mandal as well as in the surroundings Mandals of agency area erroneously submitted an unilateral report stating that the appellant herein does not belong to ST that too belongs to Konda Reddy Community.
- (iv) The Collector, E.G.Dist.failed to observe the recorded documentary evidence which was filed by the appellant herein in support of her case. The SSC Certificate, T.C. issued by Govt. Junior College, Addateegala, the Caste proof Certificate issued in favour of one Gade Thamma Rao S/o Basavaiah of Ananthagiri (V) of Rajavommangi (M) were filed by the appellant herein during the course of enquiry before the Collector herein. But the Collector herein without considering the above certificates erroneously passed the impugned order by canceling the caste certificate issued by Tahsildar, Y.Ramavaram.
- (v) The Tahsildar, Y.Ramavaram, has not conducted proper enquiry with regard to the community to which the present appellant herein belonged to. The Tahsildar, has not conducted proper enquiry and has not taken any documentary evidence to arrive to the fact that the appellant is not belong to ST.
- (vi) The Tahsildar herein has not produced any certificate pertaining to the Revenue Department in agency area to prove that Gade surname is not existed in Agency area of East Godavari.
- (vii)The collector erred in not observing the fact that the appellant was taken into employment on temporary basis in Integrated Child Development Scheme at Y.Ramavaram (V). The Collector further erred in not observing the fact that under Roc.No.7/ICDS/82, dated 17.12.1982 of Project Officer, ICDS, Y.Ramavaram, has appointed the appellant not in ST category.
- (viii)The Collector failed in not observing and not calling for the Roster particulars from the office of Regional Deputy Director, Woman Development and Child Welfare Dept.,Eluru, herein before conducting

an enquiry with regard to community verification. The Collector, herein ought to have observed the Roster list prepared by Women Development and Child Welfare Dept. before arriving to the erroneous conclusion that the appellant used false certificate.

- (ix) The Collector, herein failed to consider the Educational Certificates that were submitted during the enquiry by the appellant herein erroneously passed an impugned order.
- (x) Basing on erroneous and impugned order passed by Collector, the Govt. herein without conducting proper enquiry and not calling for records from the Thasildar, Y.Ramavaram and the Director, WD & CW Dept. passed order confirming the impugned order dt.20.3.2008 of the Collector issued in G.O.Ms.No.201, SW (CV.2)Dept., dated 15.11.2008 and further commented that the non tribals who were residing in agency areas for their livelihood claiming ST status, some as Konda Kapu and some as Konda Reddy by enrolling their children's caste as such in schools records and also claiming as born to ST's by mentioned contradictory, obscure parentage and residence in different villages/habitations to mislead enquiries.
- (xi) The Govt. without giving opportunity to the appellant herein recommended the termination of the appellant from the WD & CW. Department. It is highly excessive and arbitrary on part on the part of the Collector and autocratic and capricious on the WD & CW Dept.
- (xii) The Regional Dy. Director, WD & CW Dept. Eluru, without proper enquiry cannot pass termination orders against the appellant.
- (xiii) The recommendation and enquiry of Govt. and Collector, East Godavari District with regard to the community of the appellant is based on conjectures and surmises and hence the termination order is liable to be set aside.

6). After careful examination of the contentions of the appellant in the Review petition, written arguments, orders of the District Collector, East Godavari, Deposition of the appellant before the DLSC. before the enquiry Officer of Tribal Welfare Department, grounds of appeal and other documentary evidences furnished by the applicant and other material on file it is found that :

- (i) Gadi Nagamani herein called the Appellant enrolled in the District Employment Office Kakinada vouching for Kondareddy community which is recognized as Schedule Tribe.
- (ii) Initially in the year 1982 the appellant was appointed as Aganwadi worker. Subsequently a test for several candidates who had 10 years of experience as Aganwadi workers - for the promotion post of Extension Officer (Supervisor) Grade-II was conducted by the Department and there after the Appellant was promoted as Grade-II Supervisor in Zone-II under S.T.Quota against Roster point 25 in the year 1996.
- (iii) Though ST Status was not reflected in the Appellants appointment order - Appellant enrollment and registration in District employment office - Kakinada and her selection as Grade-II Supervisor under S.T.Quota against Roster point 25 stand as an irrefutable proof that

::4::

the appellant has a clear knowledge of her S.T certificate and her bent upon intention to use the S.T status for her employment.

- (iv) Thus the appellant cannot feign ignorance and innocence as regards her Kondareddy S.T.Status.
- (v) Further the appellant has the audacity to claim in the affidavit that she never obtained a community certificate from the competent authority nor claimed ST status for her appointment. She has also added that the District Collector has cancelled community certificate which was never obtained by her. But the appellant was atrociously blatant to adduce a copy of her community certificate in the material papers along with the affidavit filed before the DLSC.
- (vi) The Burden of proof squarely lies with the appellant Gadi Nagamani as regards the establishment of her Konda Reddy Community a Schedule Tribe. But she failed utterly due to lack of any positive evidence in her favour.
- (vii) The school transfer certificate/ Caste entry certificate in school records cannot be treated as an authentic and all conclusive proof and has no evidentiary value. It is only self declaration of the parents/ guardian at the time of admission of their children into school. There is no full proof mechanism to verify the genuiness/ veracity of such declarations. There is every possibility of wrong or false declaration by the parents with vested interest to avail the benefits meant for reserved category of Scheduled Tribes.
- (viii) The Appellants have miserably failed to establish that they are accepted into Konda Reddy community. In support of their claim two Notary affidavits - one by Bakuru Lakshmaiah S/o Chinniah and the other by Sri Kayyam Rangaiah S/o Pavdaiah both R/o Chintakarrapalem Y.Ramavaram mandal East Godavari district are adduced. It is recorded in the above cited Affidavits that Gadi Venkata Rao father of the appellant is known to villagers as "Konda Reddy" (ST) for the last 55 years. But it is proved in the enquiry of the MRO/ the RDO to be wrong and otherwise. The actual enquiries/statements recorded by the MRO Y.Ramavaram in the mandals reveals that the appellants have committed travesty of justice. The statement of Pallala Abbai Reddy, Bakaru Lakshmaiah and Kayyam Rangaiah of Chintakarrepalem village have clearly indicated that the Appellants with malafide intention have obtained villagers signatures on blank bond papers and subsequently drafted villagers statements as Konda Kapu to suit their advantage.
- (ix) Further 15 Residents of Chinta Karrepalem village belonging to Konda Reddy Scheduled Tribe have given a joint statement - clearly disowning/ denying acceptance of the appellants into their Konda Reddy community. The villagers further rebutted that the appellants Nagamani and her brother have taken advantage of the Homonymous Surnames - which have the phonetical similarities which are akin to the surnames of Konda Reddy ST Community. Thus Appellants "GADI" with "GADE" of Konda Reddy ST are unjustly used for appellants convenience. The appellant Gadi Nagamani without reference to the affidavit - submitted ST certificate of Gade Tamma Rao R/o Ananthagiri village, Rajvommangi mandal. Gade Tamma Rao is neither related to the appellant Gadi Nagamani nor has any genealogical connections with her family. Appellant Gadi Nagamani is ingeniously trying to take advantage of Homonymous surnames and show Gade Tamma Rao ST certificate as corroborative evidence to prove her surname "Gadi" as ST caste. The villagers vehemently added that the appellants never participated and performed certain

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unique festivals of Konda Reddy ST community VIZ “Tenka Panduga” “Korrakotha - Pappu Pandaga” “Rajula Babu Panduga” “Dassera Panduga” and “Gangamma Panduga”.

- (x) The Mandal Revenue Officer Y.Ramavaram and the Revenue Divisional Officer was entrusted with the enquiry and he conducted a detailed genealogical study and reported that Smt.Gadi Satyavathi (mother of the appellant) married one Addala Venkata Rao (Kapu caste) First husband - of Addatigala village and gave birth to two children.
- (xi) 1.Addala Venkataratnam (2) Addala Nageswara Rao (Petitioner in W.P.No.4522 of 1989 claiming ST Caste. After the death of her first husband Gadi Satyavathi again lived with P.R.Sundar Rao teacher - Addategala SC Mala and gave birth to three children.

1.	Sujatharani married to Manchineela Narayana Rao (Kapu)
2.	Tataji Rao Married to Eswari Kumari an off spring Born to Motimuri Veerayamma (Valmiki) and Mondretti Narayan Rao (Non-tribal)
3.	Nagamani married with Kothavalasa Seshagiri Rao Patnaik (Non-tribe)

Even the genealogical study reveals that appellants and their families are married to Non-Tribals. The MRO finally concluded that there are no families with Surname Gadi and Jarta and reported that the appellant does not belong to Konda Reddy.

- (xii) Sri Addala Nageswara Rao S/o Addala Venkat Rao first Husband to Satyavathi - mother of the appellant G.Nagamani - come under the same genealogical tree but claiming false Konda Kapu ST status which is a subject matter WP No.4522 of 1989. But the MRO Addateegala in his report No. D.O.B/2038/88 dt:9-9-1988 reported that the Birth entries of Addala family in Addateegala village for the year 1949, 1926, 1956 discloses that Sri Addala Nageswara Rao belongs to Kapu Caste but not Konda Kapu.
- (xiii) It is clear from records that appellant Smt.Nagamani and her mother Gade Satyavathi are making self contradictory statements. Smt.Gadi Satyavathi mother of the present appellant is also the mother of Sri.Addala Nageswar Rao (first Husband Addala Venkat Rao son). Sri Addala Nageswara Rao in the affidavit filed in W.P.No.4522 of 1989 stated that “according to his information and knowledge, his father and mother belong to “Konda Kapu community”. But subsequently Sri Addala Nageswar Rao and Gadi Satyavathi (mother of the appellant) admitted that she (Smt.Satyavathi) belongs to Konda Reddy community. But the present appellant Smt.Gadi Nagamani submitted a different version claiming that her mother Smt. Satyavathi belongs to KAPU caste and appellant (Gadi Nagamani) is claiming ST status because her father Gadi Venkat Rao belongs to “Konda Reddy” community. But, the appellant failed to produce an iota of evidence to show that her father Gadi Venkat Rao belongs to Konda Reddy community. Even the very existence and identity of this Gadi Venkat Rao is hazy and obscure. Thus it is clearly established in the enquiry in Y.Ramavaram mandal and surrounding mandals that there is no one with the name Gadi Venkat Rao - belonging to Konda Reddy community.

::6::

- (xiv) Finally on 18.08.2004 a Notice was issued to the individual along with proforma prescribed and requested to furnish information along with documentary proof of their caste claim specifically prior to 1950. The enquiry was conducted duly following the procedure laid down in Act.16/93 by referring the matter to the MRO Y.Ramavaram and the RDO Rampachodavaram and the Commissioner, Tribal Welfare, Hyderabad. Except school certificates - nothing was produced by the Appellant.
- (xv) Discreet enquiry by the then MRO, Y.Ramavaram, the Sub-Collector Rampachodavaram clearly established that the appellant does not belong to ST. This was doubly confirmed by her self confessional statement before the Commissioner TCR & TI., AP., Hyderabad stating that she does not belong to ST.
- (xvi) The appellant vociferously contested that the Respondent 2 and 3 (ie., the Collector, E.G. and Tahsildar, Y.Ramavaram) have conducted perfunctory enquiry about her S.T. Status in the Y.Ramavaram and surrounding mandals. She has further castigated that the Respondent No.2 & 3 have submitted an unilateral and erroneous report that the appellant is not belonging to Kondareddy community a Scheduled Tribe.
- (xvii) But the respondent No. 2 & 3 on the contrary conducted an intensive and extensive enquiry in an elaborate manner.
- (xviii) The Mandal Revenue Officer, Y.Ramavaram reported that the appellant deposed that they are the natives of Y.Ramavaram village but she failed to produce any documentary evidence in support of their permanent Abode in the agency tract and in support of their caste claim. As such their Konda Reddy ST Caste Certificate were cancelled by the Joint Collector. Aggrieved by the orders the appellants filed WP.No.14379 of 1990 in High Court of AP. Hence the case was remitted back to the District Collector for fresh enquiry within 3 months. Form-VI Notice was issued by DLSC on 23-2-2004 and again on 12-3-2004; 22-3-2004; 5-6-2004; 19-6-2004; 13-8-2004. On 13-8-2004 Appellant filed vakalat. On 18-8-2004 a notice was issued to the appellant along with proforma prescribed to furnish information along with documentary proofs of their caste claim specifically prior to 1950.
- (xix) The Commissioner of Tribal Welfare, A.P. Hyderabad has also reported that Nagamani after has given a statement stating that she does not belong to Scheduled Tribe. The DLSC. further observed that the statements submitted by the Appellants and the information furnished in the prescribed proforma is false and fabricated. The individuals failed to produce any recorded documentary evidence in support of their caste claim and the co-tribals have also denied their relationship with the appellant.
- (xx) The DLSC. finally concluded that the individual Smt. Gadi Nagamani failed to produce any recorded evidence i.e., birth and death extracts, land extracts and educational records etc., even though

ample opportunity and great number of hearings were given to the appellant. Hence DLSC recommended (As per Act 16/93 Collector is the competent authority) to cancel appellant "Konda Reddy" caste certificate.

(xxi) The appellant was given notices on 10-8-06, 2-1-07, 20-1-07, 24-1-07 and 20-7-07, 6-10-07 and finally on 20-12-07 to attend before the Collector on 3/1/2008. The appellant and their counsel were present but the same points were reiterated and added that she had not been appointed under ST category. Simultaneously on 3-1-08 the Regional Dy Director, WD&CW., Eluru furnished Roaster register for the year 1996 along with file No.519/A/93 relating to the appointment of Grade-II Supervisor from Anganwadi workers Zone-II. The Collector perused the Roaster register and Hall Ticket No:3128 where in the name of Smt Gadi Nagamani is recorded against Serial No:25 against ST Category for the post of Grade-II Supervisors in Zone-II under ST Quota against Roaster point 25 in the year 1996. Such a lengthy enquiry with ample opportunity to the appellants cannot be considered as cursory / perfunctory by any standards. The enquiry on the appellants ST certificate (Konda Reddy) by the District Collector, E.G.Dist., is definitely elaborate, exhaustive and consummate.

(xxii) Thus the appellants totally camouflaged their true "KAPU"/Non-Tribe identity and made it look like Konda Reddy - ST community. They tried their worst and made unsuccessful attempts into Kondareddy ST community into which they seek an entry. But the said Konda Reddy - ST community neither recognized nor accepted the appellants into their community. Infact the ST community bluntly negated the appellant attempts.

7). Hence it is concluded that this is a case of Non-Tribals residing in agency area for their livelihood claiming ST status, as Konda Reddy by enrolling their children caste as ST in School records and claiming to have born to STs by mentioning obscure parentage and quoting different residential villages/habitations to mislead and confuse the enquiry officer. Hence it is reiterated and emphatically concluded that the contention of the appellant in this Review petition and written arguments are devoid of any merits.

8) Government in compliance to the directions of the Hon'ble APAT., dated 20.2.2009 in O.A.No.3156 of 2009 and as per Rule 12 of G.O.Ms.No:58 SW(J) Dept dt:12-5-97 reviewed the present Review Petition and after careful examination of material papers, affidavits, certificates and other documentary evidences mentioned supra and in exercise of the powers conferred under Sec 7(2) of Act 16 of 1993 and rules made there under as per G.O.Ms.No.58 SW(J) Dept. Dt:12/5/97 hereby reject the Review petition filed by Smt Gadi Nagamani and up-hold the proceedings of the District Collector, East Godavari issued in C5(m)/1901/98, dated 20.3.2008 and the orders issued in consequent G.O.Ms.No.201, SW (CV2) Dept., dated:15-11-2008.

::8::

9). The records received from the District Collector, East Godavari through the reference 6th read above, are returned herewith in original, and he is requested to acknowledge the same.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,
SPECIAL CHIEF SECRETARY TO GOVT.

To
The District Collector,
East Godavari District (Kakinada,)(WE).Original Records

Smt. Gade Nagamani W/o K.V.V.A.Seshagiri Rao,
R/o D.No.5-28/1, Opp:IBP Petrol Bunk,
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Copy to:

The PS to Minister(TW Riad.) / PS to Prl.Secretary (TW).

The Commissioner,Tribal Welfare Hyderabad..

The Project Officer, ITDA., Rampochadavaram (for information)

Sf/Sc.

//Forwarded::By Order//

SECTION OFFICER.